

REMARKS

Claims 1-3, 7-11, and 26 were previously pending in this application. The Examiner indicated in paper 25 that claims 1-3, 8, and 10 are allowed. Claims 7, 9, and 26 have been amended. As a result, claims 1-3, 7-9, 10, 11, and 26 are pending for examination with claims 1 and 7 being independent claims. No new matter has been added.

Rejection of Claims Under 35 U.S.C. §112, first paragraph**Enablement**

The Examiner rejects claim 7 under 35 U.S.C. §112, first paragraph and asserts that the specification is not enabling for an isolated nucleic acid molecule encoding a polypeptide that has a 75% identify to the amino acid sequence of SEQ ID NO:2.

The Examiner states in Paper 25, page 3, line 20 through page 4, line 1 that "the skilled artisan would not know how to use non-identical polypeptides unless they possessed the property of stimulating the growth of lens epithelial cells". Applicants have amended claim 7 as suggested by the Examiner, to indicate that the isolated nucleic acid encodes a polypeptide that has a function stimulating growth of lens epithelial cells. Support for the amendment can be found at least at page 3, lines 7-10 of the specification.

Applicants submit that the amendment of claim 7 to include the functional limitation of the polypeptide with 75% similarity to SEQ ID NO:2 to have a function of property of stimulating growth of lens epithelial cells is sufficient to overcome the rejection of claim 7 under 35 U.S.C. §112, first paragraph. Applicants respectfully require the reconsideration and withdrawal of the rejection.

Written Description

The Examiner rejected claim 7 under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Applicants have amended claim 7 and believe it to now be in condition for allowance.

The Examiner asserts states in paper 25, page 4, line 19 through page 5, line 1, that "To provide adequate written description and evidence of possession of a claimed genus, the specification must provide sufficient distinguishing identifying characteristics of the genus. The

factors to be considered include disclosure of complete or partial structure, physical and/or chemical properties, functional characteristics, structure/function correlation, methods of making the claimed product, or any combination thereof.” Applicants have amended claim 7 to include a functional characteristic of the polypeptide, which is the requirement that the polypeptide can stimulate growth of lens epithelial cells. Applicants respectfully assert that claim limitations that set forth that the polypeptide encoded by the claimed nucleic acid must possess the function of stimulating growth of lens epithelial cells and must also have at least 75% amino acid identity to the full-length amino acid sequence set forth as SEQ ID NO:2 are distinguishing characteristics of the claimed genus. Applicants submit that the delineation of these characteristics as features of the claimed genus, provides adequate written description of the claimed genus and indicates that Applicants were in possession of the claimed genus at the time of filing. Applicants therefore respectfully request the withdrawal of the rejection of claim 7 under 35 U.S.C. §112, first paragraph.

Rejection of Claims Under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 9 and 11 under 35 U.S.C. §112 as being indefinite because they depend from a cancelled claim and are incomplete. Applicants have amended claim 9 to depend from pending claim 7. Support for the amendment can be found at least in the claims as originally filed. Applicants respectfully submit that the amendment of claim 9 also obviates the finding of indefiniteness for claim 11, which now properly depends from claim 9. Applicants respectfully request the withdrawal of the rejection of claims 9 and 11 under 35 U.S.C. §112, second paragraph.

The Examiner rejected claim 26 as lacking sufficient antecedent basis for the limitation: “said isolated nucleic acid in (i)” and thus rendering the claim unclear. Applicants have amended the claim to clarify that the hybridization of said nucleic acid agent to said isolated nucleic acid is under the stringent conditions in (i). Applicants respectfully submit that the amended claim no longer lacks sufficient antecedent basis and request reconsideration and withdrawal of the rejection of claim 26 under 35 U.S.C. §112, second paragraph.

Serial No.: 09/121,211

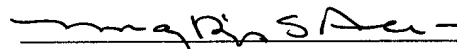
Art Unit:1647

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment that the application is not in condition for allowance, the Examiner is requested to contact the Applicants' representative at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,


Mary Dilys S. Anderson Reg. No. 52,560
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
Tel. (617) 720-3500

Docket No.: **B0801.70116US00**
Date: September 17, 2003
x09/19/03x